

Remarks

Applicants have amended claims 1, 5-6, 11-12, 19, 23, 25-26, 28, 33-34, 36, 39-41 and 44, and canceled claims 2-4, 30, 32 and 35. Applicants have amended and canceled these claims solely in order to expedite prosecution and maintain the right to prosecute these claims.

Rejection under 35 U.S.C. § 101

The Examiner rejected claims 1-48 under 35 U.S.C. § 101 stating that these claims are directed to a non-statutory subject matter. Specifically, the Examiner states that independent claims 1 and 28 are not useful, concrete or tangible. Without acquiescing to the merits of the Examiner's statements, these claims have been amended.

Independent claim 1 is useful. Overall, independent claim 1 receives "one or more pilots", and through a process of assigning rating values and grouping pilots into projects, then offers these projects to potential investors for investment through a portfolio exchange. The useful result returned by these steps is to take one or more pilots and offer them to potential investors in a useful group as a portfolio. The process also includes the useful step of assigning a rating value that is then used to group the pilots.

This method also does not claim use of a "nonfunctional descriptive material in a computer-readable medium" as discussed by the Examiner. *See* Office Action page 3. The claim does not mention a computer-readable medium. Indeed, the claimed process may be performed by a computer, but it is not limited thereto. A person or organization, for example, may receive pilots, assign values to the pilots, group pilots according to the value, and then offer the grouped pilots to potential investors. These steps may occur within a computer-readable medium, but a computer is not required.

Claim 28 is likewise useful for the reasons mentioned above.

Rejection under 35 U.S.C. § 112

Claim 35 has been canceled. Therefore the Rejection under 35 U.S.C. § 112 is now moot.

Rejection under 35 U.S.C. § 102

The Examiner rejected claims 1-9, 11, 13, 19-35, 37 and 40-48 under 35 U.S.C. § 102(e) as being anticipated by Keiser et al. (U.S. Patent No. 6,505,174). In order to show anticipation each and every element of the claim must be taught by the prior art.

Each and every element of independent claims 1 and 28 are not taught by Keiser. Keiser discusses a method for determining price by historical performance, rating a star, and listing securities according to the fastest and slowest movers. *See* Col. 7, lines 15-18 and Col. 17, lines 30-39 as cited by the Examiner. However, Keiser does not, for example, group one or more pilots into a portfolio according to these ratings. Listing securities according to specific and various values is not the same as grouping pilots into a portfolio according to a rating value. Keiser also does not teach the step of grouping pilots into portfolios based on a rating value. Keiser does discuss user portfolios, but does not teach a method of grouping pilots into portfolios. Finally, Keiser does not teach “offering said portfolio to potential investors for investment through a portfolio exchange.” Keiser does show listing single securities through the HOLLYWOOD STOCK EXCHANGE, but does not, for example, teach steps that include receiving pilots, rating them, grouping them based on ratings and offering the pilot grouping to investors. Therefore, each and every element of claims 1 and 28 are not taught by the prior art.

Rejection under 35 U.S.C. § 103

The Examiner rejects claims 10, 12, 14, 15-18, 36, 38 and 39 under 35 U.S.C. 103(a) as being unpatentable over Keiser.

Regarding claim 10, the Examiner states that it would have been obvious to one of ordinary skill in the art to include the step of using a telephone to relay investment data. The Examiner relies on Keiser for teaching that a market research user may establish an account by telephone. One of ordinary skill in the art, however, would recognize that relaying investment data using the telephone is different than establishing an account. In Keiser, the user uses the telephone to contact the trading system over the phone to establish an account. This is an incoming call to the system. In claim 10, the telephone is used by the system to relay investment data to the user, an outgoing call. The Keiser system uses the telephone as a marketing tool and

establishes clients through the telephone, whereas claim 10 uses the telephone to relay information. Claim 10 would not be obvious to one skilled in the art after reading Keiser.

In regard to claims 12, 14, 15, 16, 17, 36 and 38, the Examiner claims that the teaching of “an on-line market research tool is provided which allows the market research users to access statistical information about trader demographics and artistic tastes” renders the step of “conducting a survey of said pilot to determine a trade volume” obvious. The Examiner has not shown how providing an online research tool makes “conducting a survey of said pilot to determine a trade volume” obvious. The Examiner simply states that “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Keiser’s online market research tool to include a survey to determine trade volume.” However, providing a market research tool is different from conducting a survey. Keiser does not teach or suggest that a survey takes place, rather it simply teaches that statistical data is provided. There is no reference to how the data is collected or what is gathered and how, only that statistical information is provided to users. Also, the step of providing statistical data is passive; all the system needs to do is present the data. A survey on the other hand is active; it may, for example, ask questions, receive response, store the response, etc. One of ordinary skill in the art would recognize that conducting a survey is not obvious in light of the teaching of providing statistical data.

In regard to claims 18 and 39, the Examiner points to discussions in Keiser regarding displaying market statistics in various categories, formats, and over different periods of time. The Examiner claims that this teaching would render as obvious the step of “determining an initial day’s rating is based on the first twenty-one (21) days that a pilot is grouped into a portfolio.” Keiser does not group pilots into portfolios based on a rating value, let alone determine a rating value based on the first twenty-one days that the pilot is grouped in the portfolio. Also, the market statistics taught and displayed in Keiser are not rating values and are not used for grouping purposes. Thus, claims 18 and 39 are not obvious in light of Keiser.

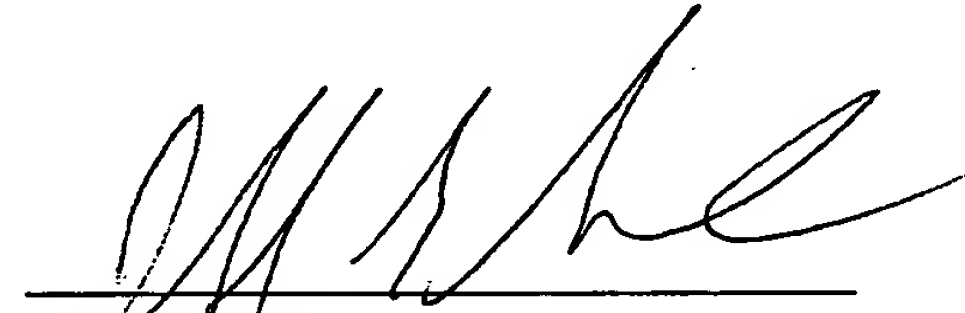
Conclusion

Applicants have amended claims 1, 5-6, 11-12, 19, 23, 25-26, 28, 33-34, 36, 39-41 and 44, and canceled claims 2-4, 30, 32 and 35. Applicants have also argued around the Examiner's general rejections under U.S.C. § 101, 102 and 103. And, the § 112 rejection is now moot.

If the Examiner has any questions or believes further discussion will aid examination and advance prosecution of the application, a telephone call to the undersigned is invited. If there are any additional fees due in connection with the filing of this amendment, please charge the fees to the undersigned's deposit account, No. 50-3483. If any extensions or fees are not accounted for, such extension is requested and the associated fee should be charged to the undersigned's deposit account, No. 50-3483.

Respectfully submitted,

6 June 2006



Jeff E. Schwartz
Reg. No. 39,019

Schwartz Sung & Webster
300 Massachusetts Avenue, NW, Suite 1101
Washington, DC 20006
Telephone: 202.289.6291
Facsimile: 866.435.138